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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRED MESI and ERIC MESI,

Plaintiff,

v.

WASHINGTON MUTUAL F.A., et al.,

Defendants.

3:09-CV-582 JCM (VPC)

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ORDER

Presently before the court is defendant California Reconveyance Company's motion to expunge lis pendens. (Doc. # 80). Pro se plaintiffs Eric Mesi and Fred Mesi responded (doc. # 81), and California Reconveyance Company filed a reply (doc. # 82). Plaintiffs filed a sur-reply without leave of the court. (Doc. # 83).

I. Procedural History

This case was transferred to multi-district litigation ("MDL") panel at an early stage. (Doc. # 40). On April 28, 2010, the MDL panel issued an order of remand. (Doc. # 43). The MDL panel retained claims 4-12 and part of claims 1, 2, and 13. (*Id.*). The MDL remanded claim 3 and part of claims 1, 2, and 13 back to this court. (*Id.*).

Following the remand, all the following defendants filed a motion to dismiss the remanded claims: Western Exchange Services Corp; Western Title Company, Inc.; Geneva Martrinjus; Meshelle Baggerman; Danita F. Fallen; and, Bank of America Corporation, N.A. (*See docs. ## 47, 48, and 54*). This court granted the motions to dismiss as to the remanded claims. (*See docs. ## 66 & 69*).

1 This court also dismissed with prejudice, via a stipulation, defendants Mortgage Electronic
2 Registration System, Inc., and Merscorp, Inc. (Doc. # 68).

3 On October 3, 2011, the MDL panel remanded a second wave of claims back to this court.
4 (Doc. # 70). The MDL panel retained claims 1, 4, 7-10, 14, and part of claim 2. (*Id.*) The MDL
5 panel remanded to this court claims 3, 5, 6 and part of claim 2. (*Id.*). Upon remand of the second
6 wave of claims, none of the remaining defendants have sought to dismiss any of the remanded
7 claims.

8 This court dismissed without prejudice, via a stipulation, defendant California Reconveyance
9 Company. (Doc. # 76). Dismissed defendant California Reconveyance Company filed the instant
10 motion to expunge lis pendens. (Doc. # 80).

11 **II. Discussion**

12 In its motion, California Reconveyance Company moves the court to expunge the lis pendens
13 on the subject property because “this litigation has concluded.” (Doc. # 80). That is not accurate.
14 Not all parties and claims in this case have been dismissed. Specifically, in the MDL panel’s second
15 remand order it remanded back 5, 6, and whatever may be left of claims 2 and 3. Defendants
16 Western Exchange Services Corp., Western Title Company, Inc., and Bank of American Corporation
17 N.A. remain parties to this litigation. Since plaintiff still has some causes of action against some
18 parties, the court cannot expunge the lis pendens. *See Oniszk-Horovitz v. Saxon Mortg.*, no. 2:11-cv-
19 00243, 2011 WL 6002959, at *3 (D. Nev. Nov. 20, 2011) (expunging lis pendens “because [the
20 entire action] was dismissed” by the court”).

21 Accordingly,

22 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that defendant California
23 Reconveyance Company’s motion to expunge lis pendens (doc. # 80) be, and the same hereby is,
24 DENIED.

25 DATED March 25, 2013.

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28 **UNITED STATES DISTRICT JUDGE**